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May 16, 2008

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From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE

Federal Fiscal Year (FFY) 2008 Supplemental Appropriations Bill (H.R. 2642)

On May 15, 2008, the House approved, 256 to 166, an amendment to H.R. 2642, the FFY 2008 supplemental appropriations bill, that includes bill language from H.R. 5613 (Dingell, D-MI), which would impose a moratorium on the implementation of seven pending Medicaid regulations until April 1, 2009, including regulations which would limit Medicaid payments to public providers to the cost of providing services to Medicaid recipients and eliminate Medicaid reimbursement of Graduate Medical Education (GME) costs. The Senate Appropriations Committee included the same Medicaid language from H.R. 5613 in its version of H.R. 2642 before approving the entire bill.

Both the House and Senate versions divided the supplemental appropriations bill into three separate amendments -- one for overseas war funding, one for war policy language, and one for domestic spending -- to allow anti-war Democrats to vote against war funding without also opposing domestic spending provisions. The House approved the war policy and domestic spending amendments, but rejected the war funding amendment because 132 Republicans voted "present" to protest the Democrats' handling of the bill, which was brought directly to the floor without providing any opportunity to offer amendments.

The Senate Appropriations Committee, however, approved all three amendments. Both versions include expanded educational benefits for veterans and extended unemployment insurance benefits. The Senate version, however, has many domestic provisions which are not in the House bill, including:

- \$490 million in additional Byrne Justice Assistance Grant (JAG) funding. Without this increase, JAG is funded at only \$170 million in FFY 2008, which is less than one-third of its FFY 2007 funding level of \$520 million;
- An amendment by Senator Lautenberg (D-NJ), which would delay the implementation for one year of a State Children's Health Insurance Program (SCHIP) policy guidance, issued by the Centers for Medicare and Medicaid Services (CMS) on August 17, 2007, which, otherwise, would restrict SCHIP eligibility and impose new cost-sharing requirements; and
- An amendment by Senator Feinstein, which would provide temporary H-2A work visas to up to 1.35 million agricultural workers over the next five-years.

Senate floor action on H.R. 2642 is expected to be completed before the Memorial Day recess, but Congress is unlikely to reconcile the differences between House and Senate versions until after the recess. The President has threatened to veto the bill because of his objections to its domestic spending provisions, including its moratorium on pending Medicaid regulation. However, similar to last year, the President ultimately will have to sign a supplemental appropriations bill into law in order to continue to fund the war in Iraq. The current moratorium on the implementation on Medicaid public provider payment limit and GME regulations expires on May 25, 2008. The extension of the moratorium in H.R. 2642 and H.R. 5613 would take effect retroactively so the County would not suffer a loss of Medicaid revenue if there is a delay in enacting the extension.

Food Stamp Reauthorization

On May 15, 2008, the Senate adopted, 81 to 15, the conference report to H.R. 2419, the 2008 Farm Bill while the House also passed it by a vote of 318 to 106 on May 14th. The President has threatened to veto the bill because he believes that it costs too much -- an estimated \$289 billion over five years -- and does not sufficiently restrict farm subsidies to wealthy farmers. However, both houses passed the bill by veto-proof margins, which indicate that a veto would be overridden. H.R. 2419 reauthorizes the Food Stamp Program through Federal Fiscal Year (FFY) 2012, and changes the program's name to the Supplemental Nutrition Assistance Program.

The bill also includes County-supported provisions which would simplify administrative reporting by recipients and which would strengthen and expand nutrition support for low-income persons, including:

- Increased benefit levels and resource limits;
- An increase in the standard deduction, asset limits, and the deduction of child care costs, which are used in determining eligibility and benefits; and
- An exclusion of military combat pay when determining eligibility and benefits.

The conference report includes language opposed by the County which reauthorize cost allocation reductions enacted in 1998 that lowered the effective Federal administrative matching rate for California from 50 percent to 43 percent, and which hold states financially liable for all over payments resulting from major automated system errors. However, the bill does not include a House provision opposed by the County which could have been interpreted as prohibiting the County from continuing to contract with community-based and faith-based organizations to provide outreach services and enrollment assistance.

State Criminal Alien Assistance Program (SCAAP)

On May 8, 2008, the House passed, on a voice vote, H.R. 1512, a County-supported bill authored by Representative Linda Sanchez (D-CA), which would make the cost of incarcerating undocumented criminal aliens charged but not convicted of a felony or two or more misdemeanors eligible for SCAAP reimbursement. Up until FFY 2003, SCAAP guidelines allowed SCAAP reimbursement to be claimed for inmates who were charged but not convicted of such crimes even though the statutory language limits eligible costs to convicted inmates. If enacted, the bill would increase the County's SCAAP revenue by increasing our costs that are reimbursable by SCAAP. The Senate has not yet scheduled any action on H.R. 1512 or S. 2587, a companion bill, which Senator Feinstein introduced earlier this year.

Neighborhood Stabilization Act of 2008

On May 8, 2008, the House passed, 239 to 88, H.R. 5818 (Waters, D-CA), the Neighborhood Stabilization Act of 2008, which would establish a new \$15 billion program for the purchase and rehabilitation of owner-vacated, foreclosed homes with the goal of stabilizing and occupying them as soon as possible. Fifty percent of the total funding would be used for loans, with the remainder used for grants. Before passing the bill, the House approved a manager's amendment that includes County-supported language providing for a direct funding allocation to qualified urban counties, including the County. The Senate has not yet scheduled any action on H.R. 5818.

Pursuit of Position on Section 1011 Undocumented Immigrant Emergency Medical Care Funding

Under Section 1011 of the Medicare Modernization Act (MMA) of 2003, \$250 million a year was appropriated for Federal Fiscal Years (FFYs) 2005 through 2008 to reimburse health providers for the cost of emergency medical care provided to undocumented immigrants. Each state receives a formula allotment which may be carried over into subsequent years until expended. California's cumulative four-year formula allotments total \$278.2 million.

Health providers, such as the County's Department of Health Services (DHS) submit quarterly claims and are retroactively reimbursed for allowable costs. To date, the County has received a total of \$17.3 million in Section 1011 payments for costs incurred between July 1, 2005 and June 30, 2007, the end of the third quarter of FFY 2007. The amount of Section 1011 reimbursement received by the County and other providers have been relatively small because Centers for Medicare and Medicaid Services (CMS) guidelines make it extremely difficult to document allowable costs and narrowly define allowable costs. Moreover, CMS' fiscal intermediary has applied the guidelines so narrowly that the County's reimbursement often is limited to one paid day of emergency medical care.

Based on policies in the Board-adopted Federal Agenda supporting increased Federal reimbursement of the County's undocumented immigrant emergency medical costs under the MMA of 2003, including by more equitably allocating funds among states, expanding the definition of allowable costs, and simplifying the reimbursement process, **the County's Washington, D.C. advocates will support legislation which would reauthorize the Section 1011 program, appropriate additional funding, expand the definition of allowable costs, simplify the reimbursement claiming process, and increase the share of total funding allocated to California to reimburse providers, such as the County.** The program needs to be reauthorized to ensure that Federal funding will continue to be available to reimburse undocumented immigrant emergency medical costs in future years. Senators from states which receive significant Section 1011 funding, such as California and Arizona, have begun to try to generate support for reauthorizing the program.

We will continue to keep you advised.

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c: All Department Heads
Legislative Strategist